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By: **Delegates Vallario, Bohanan, Brown, Carter, Gutierrez, Hutchins,  
O'Donnell, Simmons, Wood, and Zirkin**

Introduced and read first time: February 7, 2003

Assigned to: Appropriations

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A BILL ENTITLED

1 AN ACT concerning

2 **State Government - State Law Enforcement Officers - Application for Lost**  
3 **Pay and Attorneys' Fees**

4 FOR the purpose of requiring the Board of Public Works to reimburse certain State  
5 law enforcement officers that have applied for lost back pay and reasonable  
6 attorneys' fees after having been investigated for or charged with criminal  
7 charges under certain circumstances, if the investigation has concluded and  
8 criminal charges have not been filed against the officer or if certain final  
9 dispositions of all of the charges occur; eliminating a requirement to have the  
10 Attorney General or the Attorney General's designee make a determination of  
11 the applicant's good faith under certain circumstances; and generally relating to  
12 an application to the Board by a State law enforcement officer for lost back pay  
13 or reasonable attorneys' fees under certain circumstances.

14 BY repealing and reenacting, without amendments,  
15 Article - Public Safety  
16 Section 3-112(c)  
17 Annotated Code of Maryland  
18 (As enacted by Chapter \_\_\_\_ (S.B. 1) of the Acts of the General Assembly of 2003)

19 BY repealing and reenacting, with amendments,  
20 Article - State Government  
21 Section 12-314 and 12-315  
22 Annotated Code of Maryland  
23 (1999 Replacement Volume and 2002 Supplement)

24 BY adding to  
25 Article - State Government  
26 Section 12-315.1  
27 Annotated Code of Maryland  
28 (1999 Replacement Volume and 2002 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Public Safety**

4 3-112.

5 (c) (1) If a law enforcement officer is charged with a felony, the chief may  
6 impose an emergency suspension of police powers without pay.

7 (2) A law enforcement officer who is suspended under paragraph (1) of  
8 this subsection is entitled to a prompt hearing.

9 **Article - State Government**

10 12-314.

11 Subject to the limitations in this Part III of this subtitle, the Board of Public  
12 Works [may] SHALL approve reimbursement of a State officer or State employee or  
13 otherwise pay for LOST WAGES AND reasonable counsel fees that the officer or  
14 employee incurred:

15 (1) in connection with a criminal investigation into conduct as an officer  
16 or employee if the investigation has concluded and criminal charges have not been  
17 filed against the officer or employee; or

18 (2) in defending against criminal charges that related to conduct as an  
19 officer or employee if final disposition of all of the charges does not result in a plea of  
20 nolo contendere, a guilty plea, or a finding of guilt.

21 12-315.

22 (a) The Board of Public Works may not provide reimbursement or payment  
23 under this Part III of this subtitle unless:

24 (1) the State officer or State employee submits to the Board a written  
25 application for reimbursement; and

26 (2) the Attorney General certifies that:

27 (i) the applicant retained counsel;

28 (ii) the applicant gave the Attorney General written notice  
29 promptly after counsel was retained; and

30 (iii) EXCEPT AS PROVIDED IN § 12-315.1 OF THIS SUBTITLE, after  
31 review of the evidence and other information, the Attorney General or a designee  
32 appointed under this section made the following determinations:

1                                   1.           in connection with the matter under criminal  
2 investigation, the applicant discharged the public responsibilities in good faith, did  
3 not engage in unlawful conduct, and was reasonable in retaining counsel and  
4 incurring the counsel fees for which reimbursement is sought; or

5                                   2.           in connection with the matter that was the subject of  
6 criminal charges, the applicant discharged the public responsibilities in good faith  
7 and incurred reasonable counsel fees.

8       (b)       Notwithstanding subsection (a)(2)(ii) of this section, the Board of Public  
9 Works may approve reimbursement to an applicant who fails to give the Attorney  
10 General notice promptly after counsel is retained if the Board determines that the  
11 failure is for good cause.

12       (c)       If the Attorney General believes that it would be inappropriate for the  
13 Attorney General to make the determinations under subsection (a)(2)(iii) of this  
14 section, the Attorney General or the Board of Public Works may designate other  
15 counsel to carry out that duty.

16       (d)       The determinations of the Attorney General or designee under this section  
17 are not subject to judicial review.

18 12-315.1.

19       THE BOARD OF PUBLIC WORKS SHALL APPROVE PAYMENT OF LOST WAGES AND  
20 REASONABLE ATTORNEYS' FEES RESULTING FROM A SUSPENSION WITHOUT PAY TO  
21 AN APPLICANT FROM A STATE LAW ENFORCEMENT AGENCY UNDER THIS SUBTITLE,  
22 LESS ANY AMOUNT FOR LOST PAY RESULTING FROM AN UNRELATED  
23 ADMINISTRATIVE SUSPENSION OR DISCIPLINARY ACTION, IF:

24                   (1)       THE SUSPENSION WITHOUT PAY OCCURRED AS A RESULT OF ONE OR  
25 MORE CRIMINAL CHARGES AGAINST THE APPLICANT; AND

26                   (2)       THE FINAL DISPOSITION OF EACH CRIMINAL CHARGE AGAINST THE  
27 APPLICANT RESULTED IN A DISMISSAL, NOLLE PROSEQUI, OR AN ACQUITTAL.

28       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
29 construed to apply retroactively and shall be applied to and interpreted to affect any  
30 application for payment for lost wages or attorneys' fees described in this Act filed on  
31 or after September 25, 2000.

32       SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
33 October 1, 2003.